

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

PORCHA WOMICK	§	
VS.	§	CIVIL ACTION NO. 1:10CV513
UP GOBERT	§	

MEMORANDUM OPINION REGARDING TRANSFER

Petitioner, Porcha Womick, an inmate currently confined at the Lane Murray Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

Title 28 U.S.C. § 2254(a) allows a district court to “entertain an application for writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A state prisoner is required to file his federal petition for writ of habeas corpus in either the district where the prisoner is incarcerated or the district where the prisoner was convicted and sentenced. 28 U.S.C. § 2241(d). Although both district courts have jurisdiction to entertain the application, “[t]he district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.” *Id.*

Petitioner filed this petition in the Beaumont Division of the Eastern District of Texas but is currently confined at the Lane Murray Unit which is located in the Waco Division of the Western District of Texas. Petitioner did not provide any information as to district in which she

was originally convicted.

Conclusion

Under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district *or division* where it could have been brought. Such a transfer may be done sua sponte and is reviewable only for an abuse of discretion. *See Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989).

The court has considered the circumstances underlying the particular facts of this case and has determined that the interests of justice would be served by transferring this petition to the division where petitioner is incarcerated. Therefore, the petition should be transferred to the Waco Division for the Western District of Texas for hearing and determination. An order transferring the case will be entered by the undersigned.

SIGNED this 8 day of September, 2010



KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE